

# Exhibit A

IN THE DISTRICT COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF PIERCE

CHRISTINE BOWERS,	)	
	)	
Petitioner,	)	
	)	NO. 8Y613439A
vs.	)	
	)	
ROBIN KLETKE,	)	
	)	
Respondent.	)	

VERBATIM TRANSCRIPT OF PROCEEDINGS FROM CD

February 19, 2008

BEFORE THE HONORABLE DAVID KIMMERLY

TRANSCRIBED BY:  
PHYLLIS CRAVER LYKKEN, RPR, CCR NO. 2423

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1 THE BAILIFF: The Honorable David Kimmerly,  
2 Judge presiding.

3 THE JUDGE: Please be seated.

4 THE BAILIFF: The first matter involves Christie  
5 Bowers and Robin -- the first matter involves Christie  
6 Bowers and Robin Cohen. Ms. Cohen and Ms. Bowers are  
7 represented by counsel. Both parties are represented.

8 MR. FOSTER: Good morning, Your Honor.

9 MR. SHAH: Good morning, Your Honor.

10 THE JUDGE: Morning.

11 MR. FOSTER: This is a married couple, Robin  
12 Cohen and Robin Kletke.

13 THE JUDGE: They both have the same first name?

14 MR. FOSTER: Yes.

15 THE JUDGE: Interesting. Well, in this case Ms.  
16 Bowers had requested orders under the anti-harassment  
17 statute against each of the Robins, of Cohen and  
18 Kletke. And is it still your request for have such an  
19 order?

20 MR. SHAH: Yes.

21 MR. FOSTER: Yes, it is, Your Honor.

22 THE JUDGE: All right. And I gather from the  
23 documentation that has been filed that Ms. Kletke and  
24 Mr. Cohen are opposed to this?

25 MR. SHAH: Correct, Your Honor.

1 THE JUDGE: Now, there has been some material  
2 filed just recently. Have you received copies?

3 MR. FOSTER: Yes, Your Honor, we filed those.

4 THE JUDGE: Oh. I'm sorry.

5 MR. FOSTER: We did give a copy to counsel, so.

6 THE JUDGE: And counsel, you have -- have you  
7 had an opportunity to review this material?

8 MR. SHAH: We did, Your Honor, and my  
9 understanding from Mr. Foster is that he submitted  
10 some Internet records from March of '07 to November of  
11 '07. He faxed us documents, June of '07 to November  
12 of '07 because the March through June dates don't  
13 apply to us, so with that understanding, yes.

14 THE JUDGE: Well, Mr. Foster, it is Ms. Bowers'  
15 request, is there anything in addition to what you  
16 filed that you wanted to bring to my attention at this  
17 time?

18 MR. FOSTER: Well, Your Honor, I think there is  
19 a couple of things. The first is the kind of material  
20 that is being accessed in these e-mails, we have  
21 attorney/client privilege documentation, e-mails back  
22 and forth between myself and my client. We also have  
23 bank account information, credit card information,  
24 just a wide array of information, Your Honor, that the  
25 respondents have gained access to. And the real big

1 question is we don't know what has been done with the  
2 material. We don't know how that material has been  
3 used, we don't know what e-mails they have in their  
4 possession, what information they have in their  
5 possession.

6 We have, we have learned that they have actually  
7 forwarded certain e-mails from my client's account to  
8 other people, third parties, and really, Your Honor,  
9 the big problem with this matter is the question of  
10 whether and what has been done with these e-mails and  
11 the information that is contained in these e-mails  
12 that the respondents have illegally gained access to.

13 THE JUDGE: Mr. Shah?

14 MR. SHAH: Thank you, Your Honor. Just to  
15 respond to that specific point, we don't believe that  
16 there is enough sufficient information in the  
17 pleadings here to establish that my clients ever  
18 accessed the e-mail accounts. These Internet records  
19 provide us a lot of numbers and even the declarations  
20 from other parties saying that this is their Internet  
21 protocol number, the numbers on here, there is several  
22 IP addresses on here. So again, I'm not a computer  
23 expert, so I'm not exactly sure how all of this  
24 translates into my clients accessing their, her  
25 client's, excuse me, Ms. Bowers' account, but let's

1 just assume that that happened. I don't understand  
2 how that arises to the level of harassment.

3 There is, according to the statute, there is no  
4 reasonable fear. This behavior apparently happened,  
5 the last time it happened was in November, according  
6 to these records. That is over three or four months  
7 ago. Again, I'm not sure that -- who is the party? I  
8 mean are they saying it is Mr. Kletke or are they  
9 saying Ms. Cohen, are they saying one or the other,  
10 are they saying both of them? Where is this access  
11 occurring? I am not sure if that is even established,  
12 either, but again, I don't want to get into all of the  
13 technicalities, my point is, how is this harassment?

14 According to the statute, you know, does a  
15 reasonable person fear that there is some fear of harm  
16 occurring to this behavior that occurred three,  
17 four months ago?

18 I would also point out that these parties were  
19 business associates at least a year, a year and a half  
20 ago, and Ms. Bowers had given, Ms. Bowers, excuse me,  
21 had given my clients access to her e-mail, had given  
22 her password -- their password to her, to them to  
23 check her e-mails because she frequently travels out  
24 of town. So --

25 MR. FOSTER: Your Honor, if I may.

1 MR. SHAH: I'm not saying that this is, that  
2 they have a right to access it now, all I'm saying is  
3 that there is a convoluted history of interaction and  
4 lawful access to this and how to sort that out in  
5 terms of an anti-harassment order doesn't seem to make  
6 a lot of sense.

7 It seems to me, and this is what is ongoing, is  
8 that they have been contacting my clients' employers  
9 developing discovery to decide whether to file a civil  
10 lawsuit. If that is the case, then we will deal with  
11 that accordingly. And my understanding is they have  
12 also forwarded this information on to law enforcement  
13 agencies and again, if that is the venue that is going  
14 to be addressed, we will address that here, then,  
15 right now. In terms of the anti-harassment order, I  
16 just don't see how there is harassment, harassing  
17 behavior, first of all; secondly, how is that my  
18 clients are doing this?

19 THE JUDGE: All right. Thank you. And Mr.  
20 Foster?

21 MR. FOSTER: Your Honor, in response, just a  
22 couple of points. The first is on the harassment  
23 side. This behavior is akin to the respondents going  
24 in my client's underwear drawer and not only going  
25 through the underwear, but taking it out and showing



1           it to other people and really causing my client a  
2           great deal of emotional harm, a great deal of  
3           emotional distress.

4           Secondly, as to whether or not they did do this,  
5           counsel admitted to me that they did do it. He said  
6           they did it once before I sent over all of the log  
7           records. Okay? So whether they did it or not,  
8           counsel admitted they did. Okay?

9           Thirdly, in terms of the timing, the IP  
10          addresses that we gained access to and the ones that  
11          we were able to pinpoint, yes, they do go back to  
12          November. But we do not know what other IP addresses  
13          that they were using. We are investigating that Mr.  
14          Kletke, through his employers, who have separate IP  
15          addresses, have gained access to this e-mail account  
16          as recently as, who knows? I mean we just don't know.

17          The evidence we provided the Court is merely the  
18          link between the IP addresses that we found and the IP  
19          addresses that have logged into Ms. Bowers' e-mail  
20          account. So, you know, Ms. Bowers is here to testify  
21          in terms of any emotional harm or distress or anything  
22          within the statute that may be of question to Your  
23          Honor.

24          THE JUDGE: Well, perhaps a revelation of my  
25          computer ignorance, but an IP address, isn't it

1 similar to a telephone, if you are having difficulties  
2 you change your phone number?

3 MR. FOSTER: Well, the IP address is the IP  
4 address that is associated with the respondent's  
5 e-mail address. So what they were, what they were  
6 doing and also to mention, Your Honor, the respondent  
7 is a computer programmer. Okay? So in addition to  
8 the fact that he may have discovered Ms. Bowers'  
9 e-mail password, he may have other ways to get in that  
10 account, thus the need for the anti-harassment order.

11 You know, it shouldn't be up to my client to  
12 police her own e-mail account to determine whether  
13 someone is gaining unlawful access. And I might  
14 mention, Your Honor, that it is a crime, it is  
15 computer trespass, either in the first or second  
16 degree, that we are looking at here in terms of the  
17 behavior that we are trying to stop.

18 THE JUDGE: Understood. But wouldn't it still  
19 be prudent if the person feels that there had been an  
20 invasion to simply terminate that address and get a  
21 new one? Presumably.

22 MR. FOSTER: She has done that, Your Honor.

23 THE JUDGE: Presumably that cuts that off.

24 MR. FOSTER: She has done that. But  
25 unfortunately these individuals are in the same line

1 of business, so it would be, you know, we're asking in  
2 terms of the order, Your Honor, to prohibit them from  
3 gaining access to any e-mail account that my client  
4 may, may obtain, because just because she gets a new  
5 e-mail address, that doesn't mean that they can't get  
6 access to that new e-mail address.

7 THE JUDGE: Well, that was just a thought with  
8 regard to stopping such activity, but.

9 MR. FOSTER: She has attempted to mitigate, we  
10 just fear that it is so easy for the respondents to  
11 gain access to the actual address, new e-mail address  
12 that this behavior is not going to stop.

13 THE JUDGE: Mr. Shah?

14 MR. SHAH: Thank you, Your Honor. I think that,  
15 I think that is complete conjecture. My client is a  
16 computer programmer, but it would be akin to saying do  
17 I know anything about bankruptcy law because I'm a  
18 lawyer. I know nothing about bankruptcy law and I  
19 would never presume to do that. It has the same  
20 situation.

21 Although my client works, and again, it is only  
22 Mr. Kletke, Ms. Cohen doesn't do that, Mr. Kletke  
23 works in the computer field but he does not have  
24 computer knowledge to access or hack into an account.  
25 Further, there has been no showing that there is going

1 to be hacking into their account.

2 And I think that the Court is right. The simple  
3 remedy would be to change the password. And I don't  
4 know if she has or not, but clearly since November,  
5 according to the records that the petitioner has  
6 recorded, nothing has happened since then. So I don't  
7 know if she has changed the password. If she has,  
8 then that would presume to show that there has been  
9 no -- there is no problem anymore. Because there is  
10 no showing that there has been hacking going on since  
11 November until today, so there has been no showing  
12 that there has been hacking going on between March and  
13 today and my client actually doesn't have knowledge to  
14 do that.

15 MR. FOSTER: Your Honor, if I may.

16 THE JUDGE: Uh-huh.

17 MR. FOSTER: If this was a one-time occurrence,  
18 we wouldn't be here. The fact that you know that this  
19 is a systemic course of conduct, this e-mail hacking  
20 has gone on over 60 times that we have been able to  
21 verify.

22 THE JUDGE: And that, I take it, are the  
23 highlighted entries?

24 MR. FOSTER: That is correct, Your Honor.

25 THE JUDGE: Okay.

1 MR. FOSTER: That is correct.

2 THE JUDGE: And what is it that tells you, that  
3 lays this at Mr. Kletke's desk?

4 MR. FOSTER: I'm sorry?

5 THE JUDGE: What tells you that if you find  
6 evidence of hacking, what traces it back to Mr.  
7 Kletke?

8 MR. FOSTER: It is through the IP address, Your  
9 Honor. The IP address is linked to the declarations  
10 of Britney McNeil as well as Deborah Cooper as well as  
11 my client.

12 THE JUDGE: The other individuals, a couple  
13 folks --

14 MR. FOSTER: Submitted declarations, yes, and  
15 the IP address is, if you check the highlighted areas,  
16 link the IP addresses on the declarations with the IP  
17 addresses in the log files.

18 THE JUDGE: Do you have anything else?

19 MR. SHAH: I would just say, Your Honor, that  
20 those declarations, it looks to me again, I mean, I'm  
21 not a computer expert, but it looks like they were  
22 forwarded e-mails, so I don't know how they got to  
23 these people. There is one e-mail that was sent  
24 directly to Ms. Bowers, it is included in her  
25 declaration. There is actually a substantive part of

1 the e-mail that the subject matter where my client  
2 wishes her congratulations for winning some contest,  
3 that, it looks like, again, is an e-mail that was sent  
4 directly to her.

5 The other declarations, I don't know how those  
6 e-mails got to those people, because there is, it  
7 looks like it is forwarded and there is several IP  
8 addresses in there. So, again, this doesn't show any  
9 hacking and my client actually has affirmed to me that  
10 there is no hacking going on. So I don't know what,  
11 how we get there.

12 MR. FOSTER: Your Honor, I would go back to the  
13 burden of proof in terms of, you know, the burden of  
14 proof necessary to establish an anti-harassment, you  
15 know, the order, Your Honor, it is, we have  
16 demonstrated a course of conduct, we have demonstrated  
17 the pattern of conduct that has occurred dozens of  
18 times. And based on the relationship between these  
19 two individuals in terms of the fact that they are  
20 business competitors in what they do, we are just  
21 concerned, Your Honor, that this is not going to stop  
22 and we are in the process of identifying more  
23 information, getting more IP addresses that could in  
24 fact link other e-mail hacking up after November.

25 So I just want to reinforce, Your Honor, just

1 the course of conduct and the pattern that we have  
2 seen here and the fact that we don't know what these  
3 individuals have done with the e-mail information.  
4 Have they used it for unauthorized banking? I mean,  
5 we just don't know. And so we need to restrain this  
6 conduct today, Your Honor.

7 THE JUDGE: And you also mentioned that possibly  
8 some criminal investigation or further action may go  
9 on on that matter?

10 MR. FOSTER: Yeah. I have a case number, Your  
11 Honor.

12 MR. SHAH: In terms of, Your Honor, they are  
13 business competitors, I want to again reiterate that  
14 there was a civil lawsuit that Ms. Bowers was involved  
15 in a few years ago and my clients were witnesses to  
16 that lawsuit. That lawsuit eventually led to a  
17 settlement agreement, which Ms. Bowers agreed to not  
18 enter into certain businesses, and also a signed  
19 agreement that they embezzled some money but that she  
20 would repay that.

21 MR. FOSTER: That is irrelevant.

22 MR. SHAH: Now, that agreement, that civil  
23 dispute that occurred a few years ago has, I think, is  
24 the sort of engine that is driving this train. It's  
25 an ongoing dispute. There, Ms. Bowers tried to reopen

1 the settlement agreement. That failed. There is  
2 still issues about enforcement of that agreement.  
3 Again, I'm not trying to bring that into this case, I  
4 just wanted to give the background and stuff. There  
5 is clear understanding that there is an ongoing civil  
6 dispute that involves both these parties, not  
7 directly, but indirectly.

8 THE JUDGE: All right. What is Ms. Cohen's role  
9 in all of this, Ms. Cohen has not been mentioned  
10 whatsoever, just Ms. Bowers and Mr. Kletke.

11 MR. SHAH: They are just a married couple, Your  
12 Honor. I don't know.

13 MR. FOSTER: Your Honor, the e-mail address is,  
14 it is our opinion that the e-mail address r2agility@  
15 verizon.net (phonetic) is utilized by both Ms. Cohen  
16 and Mr. Kletke. They sign the e-mails at the bottom  
17 Robin and Robin, thus the need to restrain both, both  
18 parties. And Your Honor, I think, as counsel alluded  
19 to adversarial nature and history between these  
20 parties, I think that is definitely the impetus behind  
21 this hacking relation, for whatever reason they  
22 decided to invade my client's privacy and utilize that  
23 information for unknown purposes.

24 THE JUDGE: All right. Well, let's be clear  
25 what we are not doing today. We are not deciding



1           whether there has been any criminal activity. There  
2           has been allegations and apparently there is some  
3           investigation underway as to whether there has been  
4           some computer trespass activity taking place. I don't  
5           know and I'm not making any decision about that today.  
6           That is a law enforcement and prosecutor bailiwick,  
7           not this court under the anti-harassment statute.

8           We are not deciding, either, whether there is  
9           any other activity involved in terms of any business  
10          deals, business relationships, business competition.  
11          Whatever there is, there is. And whether there is any  
12          civil action going to further civil action will result  
13          from any of that activity, I have no idea and I'm not  
14          making any decision about it.

15          The only question before me is Ms. Bowers's  
16          request that Ms. Cohen and Mr. Kletke be directed,  
17          under the anti-harassment statute, to have no further  
18          contact with her. And the particulars we are most  
19          concerned about is the electronic contact, the e-mail  
20          activity penetrating e-mail accounts and by virtue of  
21          that penetration apparently having access to business  
22          records and banking records. So that is the only  
23          thing I'm addressing. Is that your understanding?

24          MR. SHAH: As far as I know, Your Honor, there  
25          has been no allegation that my clients have phoned

1 her, been by her workplace, or any other contact  
2 whatsoever established, and my clients have not had  
3 any contact with her.

4 THE JUDGE: All right, counsels, the Court's  
5 decision will be as follows: For this next six  
6 months, I will direct Ms. Cohen and Mr. Kletke to have  
7 no contact with Ms. Bowers, emphasizing the area that  
8 is of concern, the electronic contact. Any question  
9 about that?

10 MR. SHAH: No, Your Honor. I just want to  
11 clarify in terms of contact, as counsel alluded, my  
12 clients run a dog show business.

13 THE JUDGE: Uh-huh.

14 MR. SHAH: And I don't know if Ms. Bowers  
15 intends to attend any of those shows or anything of  
16 that sort. She was, at one time, in that dog show  
17 business, or dog show activities.

18 THE JUDGE: Uh-huh.

19 MR. SHAH: It would be very detrimental to my  
20 clients' business if she were to show up and then all  
21 of a sudden they have to, like, shut down and leave,  
22 and so forth. So if it is just electronic contact,  
23 that is not a problem at all. If it is physical  
24 contact, it could present some issues if they run into  
25 each other at one of these dog shows.

1 MR. FOSTER: And, Your Honor, we don't have any  
2 objections.

3 THE JUDGE: So the order will be that Ms. Cohen  
4 and Mr. Kletke are directed to not have any contact  
5 with Petitioner Ms. Bowers and emphasizing that is  
6 electronic. I'm not setting any geographic  
7 limitations upon any parties' activities, but just  
8 simply trying to concentrate on the world of  
9 electronic contact.

10 Ms. Cohen and Ms. Bowers, I need your  
11 signatures.

12 MR. SHAH: Your Honor, may I see the order just  
13 before they sign? Just, I wouldn't try to contact  
14 because they are not necessarily contacting Ms. Bowers  
15 electronically, what they are doing --

16 THE JUDGE: Well, you have a --

17 MR. SHAH: Is they are manipulating --

18 THE JUDGE: If you have a suggestion on  
19 language, now is the time.

20 MR. SHAH: I did draft an order, Your Honor, if  
21 I may present it to you.

22 THE JUDGE: Please.

23 MR. SHAH: Now, this includes, this includes the  
24 no-contact, but if you see paragraph 2, No. 2 on the  
25 second page --

1 THE JUDGE: And counsel, have you reviewed?

2 MR. FOSTER: I haven't seen it. Well, this  
3 order is exactly the problem that I had just  
4 articulated, Your Honor, that this is very broad and  
5 would be restricting my clients' businesses, and so --

6 MR. SHAH: I think I'm just emphasizing No. 2,  
7 Your Honor, in terms of the verbiage.

8 THE JUDGE: Well, you are directing that any  
9 copies of e-mails and other data be destroyed. I  
10 don't think that is within my purview under the anti-  
11 harassment statute.

12 MR. SHAH: You can strike that, Your Honor, and  
13 maybe the first sentence.

14 THE JUDGE: You also direct not to discuss. I  
15 am not quite sure how that language -- access or view  
16 certainly is appropriate. Take a look at that,  
17 please. I believe that has the key terms that are  
18 necessary and permissible under the anti-harassment  
19 statute.

20 MR. FOSTER: Looks good, then. Thank you.

21 MR. SHAH: Now, Your Honor, is that going to  
22 apply to both?

23 THE JUDGE: Yes, it will be the same language on  
24 each.

25 MR. FOSTER: Okay. Good.

1 THE JUDGE: Any questions on this, Mr. Kletke,  
2 Ms. Cohen?

3 MR. SHAH: No, Your Honor, they will, as I say,  
4 there is no issue at all with this.

5 THE JUDGE: All right.

6 MR. SHAH: I will have my clients sign both.

7 THE JUDGE: Ms. Cohen signs that one.

8 MR. SHAH: This one. Okay. Thank you.

9 THE JUDGE: And this one is Mr. Kletke's, as  
10 soon as I get it ready.

11 MR. SHAH: And the Court is not making any  
12 specific findings; is that right, Your Honor?

13 THE JUDGE: I am finding that it appears to be  
14 justified under the anti-harassment statute and I  
15 believe it is necessary for the next six months to  
16 restrain this activity. That is my finding.

17 MR. SHAH: Okay. Thank you. That is all I  
18 needed to know.

19 THE JUDGE: As far as the other activity, you  
20 both know where the other courts are.

21 MR. SHAH: Do we have the other order as well?

22 THE JUDGE: I am, need to make sure I've got  
23 exactly the same language on each, and I don't recall  
24 exactly what I said here, so.

25 MR. SHAH: Thank you.

1 THE JUDGE: All right. This will be in effect,  
2 then, for the next six months. Mr. Kletke and Ms.  
3 Bowers need to sign that one, and hopefully with the  
4 passage of six months of time both parties will have  
5 moved on in other directions, and if other matters are  
6 still pending in other courts, hopefully they will be  
7 close to resolutions.

8 MR. SHAH: Thank you, Your Honor.

9 MR. FOSTER: Thank you, Your Honor.

10 THE JUDGE: You are welcome. Mr. Shah, why  
11 don't you and your clients wait a few minutes so we  
12 don't have to take the same elevator, it might be more  
13 comfortable.

14 MR. SHAH: Sure. Thank you, Your Honor.

15 (END OF PROCEEDINGS.)

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## C E R T I F I C A T E

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF KING )

This is to certify that I, Phyllis Craver Lykken, Certified Court Reporter and Notary Public in and for the State of Washington, officing at Bellevue, transcribed the within and foregoing recorded proceedings; said proceedings being transcribed by me from a CD on the date herein set forth; that said examination was recorded and thereafter under my supervision transcribed, and that same is a full, true and correct record of the testimony of said proceedings, including all questions, answers and objections, if any, of counsel.

I further certify that I am not a relative or employee or attorney or counsel of any of the parties, nor am I financially interested in the outcome of the cause.

IN WITNESS WHEREOF I have hereunto set my hand and affixed my official seal this                      day of                      , 2010.



*[Signature]*  
PHYLLIS CRAVER LYKKEN, RPR,  
CCR NO. 2423  
Notary Public in and for the State  
of Washington  
My Commission expires on March 31, 2012